

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

Vol. 12

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No. 13

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DEPARTMENT OF THE TREASURY
U.S. Customs Service

Customs Bulletin

Logistics Management Division, Washington, D.C. 20229

and Decisions

of the United States Court of Customs and
Federal Claims and the United States
Customs Court



NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 78-80)

Customs bonded warehouses—Customs Regulations amended

Section 19.2, Customs Regulations, pertaining to the requirements for establishing a bonded warehouse, amended

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 19 - CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Customs Regulations by eliminating the requirement that an application to establish a Customs bonded warehouse ordinarily must be accompanied by a certificate issued by a board of fire underwriters that the building is acceptable for fire insurance purposes. In place of the certificate, evidence of fire insurance coverage or, if the applicant does not have fire insurance, certificates from an officer or agent of each of two insurance companies stating that the building is acceptable for fire insurance purposes, must be submitted.

EFFECTIVE DATE: March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

John Elkins, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5856).

U.S. Customs Service Transit Division

Form 100-1

For use by the Customs Service in connection with the processing of transit cargo.

When the Customs Service is notified by the Bureau of Customs that a transit cargo is to be processed, the Customs Service shall issue this form to the Bureau of Customs.

This form shall be filled out by the Customs Service.

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SUPPLEMENTARY INFORMATION:

BACKGROUND

Historically, an application to establish a Customs bonded warehouse must be accomplished by evidence that the building is fire-proof or eligible for fire insurance. The purpose of this requirement is to provide Customs with evidence that merchandise to be stored in the warehouse would be safe from destruction by fire, thus protecting the interests of the Government.

Article 424 of the Customs Regulations of 1857 required that an application to establish a private bonded warehouse be accompanied by a certificate signed by the proper officers of two or more insurance companies that the building is "a first class fire-proof store." In 1869, this requirement was replaced by a requirement that the application be accompanied by a certificate from a board of fire underwriters stating the building is eligible for fire insurance. At ports where no board of fire underwriters existed, the certificates from two or more insurance companies continued to be acceptable.

Section 19.2(b) of the present regulations (19 CFR 19.2(b)) provides that the application shall be accompanied by a certificate signed by the president or secretary of a board of fire underwriters, and at ports where no such board exists, by an officer or agent of two or more insurance companies, stating that the building is a suitable warehouse and acceptable for fire-insurance purposes.

However, because boards of fire underwriters have for the most part ceased to exist and in light of the modern trend to insure all warehouses, the Customs Service has determined that a more practicable and effective way of obtaining evidence of the safety of a warehouse from fire is to require evidence of fire insurance coverage. In the event the applicant does not have fire insurance coverage, a certificate signed by an officer or agent of each of two insurance companies, stating that the building is acceptable for fire-insurance purposes must accompany the application. Section 19.2(a) of the Customs Regulations is being amended to incorporate the new requirement.

Because this amendment merely updates an existing requirement and imposes no additional duty on the public, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Teresa M. Polino, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, other personnel in the Customs Service participated in its development.

AMENDMENT TO THE REGULATIONS

The first sentence of paragraph (b) of section 19.2 of the Customs Regulations (19 CFR 19.2(b)), is amended to read as follows:

§ 19.2 Application to bond; bond; renewal of.

* * * * *

(b) The applicant shall submit evidence of fire insurance coverage on the proposed warehouse. If the applicant does not have fire insurance for the proposed warehouse, he shall submit a certificate signed by an officer or agent of each of two insurance companies stating that the building is acceptable for fire-insurance purposes. * * *

(R.S. 251, secs. 555, 556, 624, 46 Stat. 742, 759 (19 U.S.C. 66, 1555, 1556, 1624))

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved February 22, 1978

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER March 15, 1978 (43 FR 10684)]

(T.D. 78-81)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Hong Kong

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 8, 1978.

There is published below a directive of December 30, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning visa requirements on cotton, wool, and manmade fiber textile products manufactured or produced in Hong Kong. This directive cancels and supersedes that Committee's directive of August 16, 1976 (T.D. 76-239).

This directive was published in the FEDERAL REGISTER on January 5, 1978 (43 FR 993), by the Committee.

(QUO-2-1)

WILLIAM D. SLYNE,
for JOHN B. O'LOUGHLIN,
Director
Duty Assessment Division.

United States Department of Commerce
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 30, 1977

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive cancels and supersedes the directive of August 16, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements which established an export visa requirement for certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States, effective on September 6, 1976.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 8, 1977, between the Governments of the United States and Hong Kong, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1978 and until further notice, entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 330-359 (formerly Categories 39-63), wool textile products in Categories 431-459 (formerly Categories 111-125), and man-made fiber textile products in Categories 630-659 (formerly Categories 214-240), produced or manufactured in Hong Kong and exported to the United States after December 31, 1977, for

which Hong Kong has not issued an appropriate visa. Cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported before January 1, 1978 in accordance with the previously established visa procedures shall not be denied entry until June 1, 1978.

The new visa will be a signed copy of a Hong Kong export license (Form 4 or 5) with a stamp on the front side reading, "Approved for export to the U.S.A. and debited against restraint limits."

The category or categories and quantities in the shipment shall be correctly indicated on the export license; otherwise, the goods will be denied entry. The only exception will be instances in which the quantity indicated on the export license exceeds the actual quantity of the shipment.

Visas covering cotton, wool and/or man-made fiber apparel products classified in the following categories which are merged, i.e., Categories 333/334, 338/339, 445/446, 633/634, 638/639, and 645/646 shall show either the combination of categories or a constituent category in the combination.

Visas for shipments valued under U.S.\$250 need not show the correct category or quantity but shall indicate, "Approved for export to the U.S.A. goods valued under U.S.\$250 and not debited against restraint limits."

Facsimiles of the visas with stamps thereon are enclosed.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Hong Kong and with respect to imports of cotton, wool and made fiber textile products from Hong Kong have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **FEDERAL REGISTER**.

Sincerely,

ARTHUR GAREL

*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-82)

Bonds

Approval and discontinuance of Carrier bonds, Customs Form 3587

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 8, 1978.

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
AAA Transfer, Inc., 150 South Kenyon, Seattle, WA; motor carrier, Peerless Ins. Co. (PB 4/27/72) D 4/27/75 ¹	Nov. 19, 1975	Nov. 19, 1975	Seattle, WA; \$25,000
Air Express International Corp., Cargo Bldg. #89, J.F.K. Int'l Airport, Jamaica, NY; air freight forwarder, American Motorists Ins. Co. (PB 4/20/63) D 11/23/77 ²	Nov. 22, 1977	Nov. 23, 1977	New York Sea- port; \$50,000
Andrews Trucking Ltd., R.R. #4, St. Catharines, Ontario; motor carrier, St. Paul Fire & Marine Ins. Co. (PB 3/3/75) D 11/9/77 ³	Nov. 10, 1977	Nov. 10, 1977	Buffalo, NY; \$50,000
Bay Area—Los Angeles Express Inc., Arthur & Quint Sts., San Francisco, CA; motor carrier, Peerless Ins. Co.	Nov. 9, 1977	Nov. 23, 1977	San Francisco, CA, \$25,000
M. Bruenger & Co., Inc., 6250 N. Broadway, Wichita, Sedgwick County, KS; motor carrier, Federal Ins. Co.	Nov. 21, 1977	Nov. 22, 1977	St. Louis, MO; \$50,000
Burgmeyer Brothers, Inc., P.O. Box 192, Reading, PA; motor carrier, Fidelity & Deposit Co. (PB 4/15/75) D 11/18/77 ⁴	Nov. 18, 1977	Nov. 25, 1977	Philadelphia, PA; \$50,000
Cast North America, One Westmount Square, Mont- real, P.Q. Canada; motor carrier, Transamerica Ins. Co.	Feb. 23, 1976	Nov. 18, 1977	Ogdensburg, NY; \$25,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Century Carloading Inc., 15 Court St., Buffalo, NY; freight forwarder, Fidelity & Deposit Co. of MD D 11/21/77	July 3, 1968	Sept. 4, 1968	Buffalo, NY; \$50,000
Chase, Leavitt & Co., 10 Dana St., Portland, ME; motor carrier, Maine Bonding & Casualty Co.	Nov. 28, 1977	Dec. 12, 1977	Portland, ME; \$50,000
Del Transport, Inc., 384 Charles St., Providence, RI; motor carrier, The Home Indemnity Co.	Nov. 14, 1977	Nov. 15, 1977	Providence, RI; \$25,000
D. Donnelly Ltd., 855 Montee de Liesse, St. Laurent, P.Q. Canada; motor carrier, Transamerica Ins. Co. (PB 8/21/70) D 12/13/77 ^a	Nov. 3, 1977	Dec. 13, 1977	Ogdensburg, NY; \$25,000
Eck Miller Transportation Corp., 1830 South Plate St., Kokomo, IN; motor carrier, American Druggists' Ins. Co.	Nov. 1, 1977	Nov. 23, 1977	Cleveland, OH; \$50,000
Four Aces Transportation, 474 Third St., P.O. Box 971, Bishop, CA; motor carrier, Northwestern National Ins. Co. of Milwaukee D 12/6/77	June 18, 1975	Sept. 23, 1975	Nogales, AZ; \$25,000
Freeport Fast Freight, 4109 W. 52nd Place, Chicago, IL; motor carrier, North River Ins. Co. D 11/18/77	Nov. 22, 1976	Dec. 22, 1976	Chicago, IL; \$25,000
G. I. Trucking Co., 14727 Alondra Blvd., La Mirada, CA; motor carrier, Liberty Mutual Ins. Co.	Nov. 15, 1977	Dec. 12, 1977	Los Angeles, CA; \$50,000
L. T. Patrick a/k/a Gator Bonding Co., P.O. Box 2883, Fresno, CA; motor carrier, Sentry Indemnity Co.	Oct. 5, 1977	Dec. 14, 1977	Nogales, AZ; \$25,000
Joe Lee Gilbert d/b/a Gilbert International Warehouses, 2820 Davis Ave., Laredo, TX; motor carrier, National Surety Corp. (PB 3/8/68) D 10/26/77 ^a	Oct. 4, 1977	Oct. 26, 1977	Laredo, TX; \$25,000
Gleason Refrigerated Service, Inc., 284 Main St., Gloucester, MA; motor carrier, The American Ins. Co.	July 28, 1977	Dec. 2, 1977	Boston, MA; \$50,000
Harbour Air Freight Service, Inc., P.O. Box 3215, Trenton, NJ; motor carrier, St. Paul Fire & Marine Ins. Co. D 11/15/77	Nov. 15, 1974	Jan. 10, 1975	New York Seaport; \$50,000
Howard Hall Co., Inc., P.O. Box 698, Birmingham, AL; motor carrier, Fireman's Fund Ins. Co. D 11/20/77	Nov. 20, 1975	Dec. 23, 1975	Mobile, AL; \$25,000
Frank M. Herbert Inc., 504 Raritan Center, Edison, NJ; motor carrier, American Druggists' Ins. Co.	Nov. 1, 1977	Nov. 16, 1977	Newark, NJ; \$30,000
Interport Trucking Inc., 2220 N. Fleet St., Elizabeth, NJ; motor carrier, Sentry Ins. Co.	July 21, 1976	Nov. 11, 1977	Newark, NJ; \$50,000

^a See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Keen Transport, Inc., P.O. Box 1417, Hudson, OH; motor carrier, Protective Ins. Co.	Sept. 9, 1977	Nov. 9, 1977	Cleveland, OH; \$50,000
Land Air Delivery Inc., 10130 Praire View Road, Kansas City, MO; motor carrier, American Manufacturers Mutual Ins. Co.	Nov. 14, 1977	Nov. 14, 1977	St. Louis, MO; \$25,000
Lee Way Motor Freight, Inc., 3000 West Reno St., Oklahoma City, OK; motor carrier, St. Paul Fire & Marine Ins. Co. (PB 1/18/68) D 11/30/77	Oct. 1, 1977	Nov. 30, 1977	Houston, TX; \$50,000
Leggett Express, Inc, 95 Leggett St., Hartford, CT; motor carrier, Great American Ins. Co.	July 22, 1977	Nov. 28, 1977	Bridgeport, CT; \$50,000
Ed Miller Sales & Rentals Ltd., 11106-151 St., Edmonton, Alberta, Canada, motor carrier, Transamerica Ins. Co. D 12/12/77	Nov. 12, 1975	Nov. 18, 1975	Great Falls, MT; \$25,000
National Freight, Inc., 57 West Park Ave., Vineland, NJ; motor carrier, The Aetna Casualty & Surety Co.	July 10, 1977	Sept. 29, 1977	Philadelphia, PA; \$50,000
Nogales System Sales, Inc., P.O. Box 1491, Nogales, AZ; motor carrier, St. Paul Fire & Marine Ins. Co.	Aug. 18, 1977	Dec. 6, 1977	Nogales, AZ; \$25,000
Plantain Express, Inc., 7310 N.W. 8th St., Miami, FL; motor carrier, Washington Int'l Ins. Co. c/o Roanoke Agency.	Dec. 7, 1977	Dec. 7, 1977	Miami, FL; \$50,000
Secon Service System Inc., P.O. Box 618, Lyndhurst, NJ; motor carrier, Peerless Ins. Co.	Dec. 2, 1977	Dec. 7, 1977	Newark, NJ; \$50,000
Texas-Continental Express, Inc., 2603 W. Euless Blvd., Euless, TX; motor carrier, Ins. Co. of North America. (PB 11/19/76) D 12/29/77 ¹	Nov. 19, 1977	Dec. 29, 1977	Houston, TX; \$25,000
The Texas Mexican Railway Co., Convent at Moctezuma, Laredo, TX; rail carrier, St. Paul Fire & Marine Ins. Co. (PB 7/9/41) D 11/14/77 ²	Oct. 12, 1977	Nov. 14, 1977	Laredo, TX; \$100,000

¹ Surety is U.S. Fidelity & Guaranty Co.² Surety is St. Paul Fire & Marine Ins. Co.³ Surety is U.S. Fidelity and Guaranty Co.⁴ Surety is U.S. Fidelity and Guaranty Co.⁵ Surety is U.S. Fidelity and Guaranty Co.⁶ Surety is American General Ins. Co.⁷ Surety is U.S. Fidelity and Guaranty Co.⁸ Surety is Maryland Casualty Co.

(BON-3-03)

LEONARD LEHMAN
Assistant Commissioner
Regulations and Rulings.

(T.D. 78-83)

Foreign Currencies—Certification Of Rates

Rates of exchange certified to the Secretary of the Treasury by the
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 8, 1978.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 78-25 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Norway krone:

February 14, 1978.....	\$0. 1839
February 15, 1978.....	. 1839
February 16, 1978.....	. 1847
February 17, 1978.....	. 1855½

Finland markka:

February 17, 1978.....	\$0. 2373
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(LIQ-3)

W. D. SLYNE,
JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 78-84)

Foreign Currencies—Daily Rates for Countries Not On Quarterly List

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 8, 1978.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying

rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

February 13, 1978.....	Holiday
February 14, 1978.....	\$0. 2167
February 15, 1978.....	. 2165½
February 16, 1978.....	. 2162
February 17, 1978.....	. 2167

Iran rial:

February 13, 1978.....	Holiday
February 14, 1978.....	\$0. 0141
February 15, 1978.....	. 0141
February 16, 1978.....	. 0141
February 17, 1978.....	. 0141

People's Republic of China yuan:

February 13, 1978.....	Holiday
February 14, 1978.....	\$0. 5884
February 15, 1978.....	. 5884
February 16, 1978.....	. 5920
February 17, 1978.....	. 5979

Philippines peso:

February 13, 1978.....	Holiday
February 14, 1978.....	\$0. 1355
February 15, 1978.....	. 1355
February 16, 1978.....	. 1355
February 17, 1978.....	. 1355

Singapore dollar:

February 13, 1978.....	Holiday
February 14, 1978.....	\$0. 4297
February 15, 1978.....	. 4299
February 16, 1978.....	. 4304
February 17, 1978.....	. 4305

Thailand baht (tical):

February 13, 1978.....	Holiday
February 14-17, 1978.....	\$0. 0490

(LIQ-3)

W. D. SLYNE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 78-85)

Foreign Currencies—Daily Rates for Countries Not On Quarterly List

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 8, 1978.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

February 20, 1978	-----	Holiday
February 21, 1978	-----	\$0. 2170
February 22, 1978	-----	. 2169
February 23, 1978	-----	. 2169
February 24, 1978	-----	. 2169

Iran rial:

February 20, 1978	-----	Holiday
February 21-24, 1978	-----	\$0. 0141

People's Republic of China yuan:

February 20, 1978	-----	Holiday
February 21, 1978	-----	\$0. 6052
February 22, 1978	-----	. 6052
February 23, 1978	-----	. 6052
February 24, 1978	-----	. 6082

Philippines peso:

February 20, 1978	-----	Holiday
February 21-24, 1978	-----	\$0. 1355

Singapore dollar:

February 20, 1978	-----	Holiday
February 21, 1978	-----	\$0. 4310
February 22, 1978	-----	. 4312½
February 23, 1978	-----	. 4311
February 24, 1978	-----	. 4318

Thailand baht (tical): *1.00*
 February 20, 1978..... Holiday
 February 21-24, 1978..... \$0. 0490
 (LIQ-3)

W. D. SLYNE,
 for JOHN B. O'LOUGHLIN,
 Director
 Duty Assessment Division.

(T.D. 78-86)

Foreign Currencies—Certification Of Rates

Rates of exchange certified to the Secretary of the Treasury by the
 Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
 OFFICE OF THE COMMISSIONER OF CUSTOMS,
 Washington, D.C., March 8, 1978.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 78-25 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Switzerland franc:

February 22, 1978..... \$0. 5475
 February 23, 1978..... . 5568

Finland markka:

February 24, 1978..... \$0. 2357

France franc:

February 24, 1978..... \$0. 2050
 (LIQ-3)

W. D. SLYNE,
 for JOHN B. O'LOUGHLIN,
 Director,
 Duty Assessment Division.

(T.D. 78-87)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool and manmade fiber textile products manufactured or produced in the Republic of Korea

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 14, 1978.

There is published below a directive of December 27, 1977, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in certain categories manufactured or produced in the Republic of Korea.

This directive was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65246), by the Committee.

(QUO-2-1)

WILLIAM D. SLYNE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

United States Department of Commerce
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 27, 1977

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of

Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978 and for the twelve-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories in excess of the indicated levels of restraint:

<i>Category</i>	<i>Twelve-Month Level of Restraint</i>
314	7, 000, 000 square yards
331	330, 000 dozen pairs
333/334/335	76, 555 dozen of which not more than 43,560 dozen shall be in Category 333/334 and not more than 44,479 dozen shall be in Category 335
338/339	444, 444 dozen
340	135, 127 dozen
341	89, 655 dozen
345	27, 174 dozen
347/348	201, 439 dozen of which not more than 142,245 dozen shall be in Category 347 and not more than 109,554 dozen shall be in Category 348
410	2, 750, 000 square yards
433/434	194, 404 units of which not more than 141,351 units shall be in Category 433 and not more than 72,493 units shall be in Category 434
438	43, 674 dozen
443	320, 448 units
444	45, 495 units
445/446	48, 931 dozen
447	938, 611 units
448	87, 500 units

<i>Category</i>	<i>Twelve-Month Level of Restraint</i>	
633/634/635	1, 200, 158	dozen of which not more than 153,403 dozen shall be in Category 633; not more than 706,606 dozen shall be in Category 634; and not more than 520,-113 dozen shall be in Category 635
638/639	4, 823, 998	dozen
640	5, 334, 100	dozen
641	896, 397	dozen
643	648, 288	units
645/646	2, 836, 106	dozen
647	867, 055	dozen
648	337, 079	dozen

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in Categories 333, 334, 335, 338, 339, 410, 443, 633, 634, 635, 638, 639, 640, 641, 643, 645, and 646, produced or manufactured in Korea and exported to the United States prior to January 1, 1978, shall be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978. When the data are available, adjustments to account for cotton, wool and man-made fiber textile products which have been exported prior to January 1, 1978 and are chargeable to any unfilled balances remaining from the previous agreement year, will be made to you by further letter. Merchandise exported prior to January 1, 1978 in categories other than those listed immediately above will not be subject to this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be

made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL

*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-88)

*Cotton, Wool, and Manmade Fiber Textile Products—
Restriction on Entry*

Restriction on entry of cotton, wool, and manmade fiber textile products
manufactured or produced in the Republic of Korea

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 14, 1978.

There is published below a directive of January 26, 1978, received by the Commissioner of Customs from the Chairman, Committee, for the Implementation of Textile Agreements, concerning export visas and certifications for exempt cotton, wool and manmade fiber textile products manufactured or produced in the Republic of Korea. This directive further amends, but does not cancel, that Committee's directive of May 19, 1972 (T.D. 72-339).

This directive was published in the FEDERAL REGISTER on February 1, 1978 (43 FR 4276), by the Committee.

(QUO-2-1)

WILLIAM D. SLYNE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division

United States Department of Commerce
Industry and Trade Administration
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

January 26, 1978

COMMISSIONER OF CUSTOMS

Department of the Treasury

Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This letter further amends, but does not cancel, the directive of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the FEDERAL REGISTER, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. It also further amends, but does not cancel, the directive of August 22, 1973, which established a mechanism to exempt from the levels of the bilateral agreement between the Governments of the United States and the Republic of Korea, certain textile products which have been certified for exemption by the Government of the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directives of May 19, 1972 and August 22, 1973, as previously amended, are hereby further amended to authorize Kim Chul Su to issue visas

and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea, effective on January 1, 1978, replacing Park Yong Dow. Goods covered by visas and certifications issued by Park Yong Dow before January 1, 1978 shall not be denied entry.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *FEDERAL REGISTER*.

Sincerely,

EDWARD GOTTFRIED
*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-89)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 13, 1978.

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parenthesis immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director/ amount
Emilio Antunano d/b/a Agua Mineral La Marquesa as Individual, Urb. Bucare, Rio Piedras, PR; Continental Casualty Co.	Nov. 28, 1977	Dec. 7, 1977	San Juan, PR; \$10,000
Allied Beverages, Inc. d/b/a Best Way Distributing Co., 7535 Woodman Place, Van Nuys, CA; Sentry Indemnity Co. (PB 10/19/73) D 9/13/77 ¹	Oct. 3, 1977	Oct. 25, 1977	Los Angeles, CA; \$10,000
Bestway Equipment Services, Inc. (A NJ Corp.) Box 3830, Carolina, PR; Peerless Ins. Co. D 9/21/77	June 11, 1976	June 14, 1976	New York Seaport; \$25,000
Bletsch Steamship, 525 Cotton Exchange Bldg., Houston, TX; St. Paul Fire & Marine Ins. Co.	Dec. 5, 1977	Dec. 5, 1977	Houston, TX; \$10,000
Borich Transfer Co., Inc., 34 N.E. Marine Drive, Portland, OR; Safeco Ins. Co. of America	Oct. 4, 1976	Jan. 5, 1977	Portland, OR; \$10,000
Carling Distributors, Inc., 610 Lincoln St., Waltham, MA; Seaboard Surety Co. D 8/5/77	Nov. 20, 1972	Dec. 22, 1972	Boston, MA; \$100,000
Colony Steamship Co., Inc., 40 Broad St., Boston, MA; Peerless Ins. Co. D 9/9/77	Apr. 11, 1974	Apr. 23, 1974	Boston, MA; \$10,000
Contract Marine Carries, a Joint Venture Consisting of: B & B Maritime Investment Co., Inc., and Trans Ocean Shipping Co., Inc., P.O.B. 3632, Richmond, VA; American Motorists Ins. Co.	Dec. 22, 1977	Dec. 22, 1977	New York Seaport; \$10,000
Costa Line (P.R.), Inc., Pier #3, San Juan, PR; Puerto Rican-American Ins. Co.	Sept. 7, 1977	Sept. 8, 1977	San Juan, PR; \$10,000
Emery Distribution Systems Inc., also d/b/a Emery Customs Brokers and Emery Ocean Freight, Buffalo International Airport, Buffalo, NY; American Motorists Ins. Co. (PB 10/22/76) D 10/31/77 ²	Oct. 18, 1977	Oct. 31, 1977	Buffalo, NY; \$10,000
Evergreen United Corp., (A CA Corp.) 400 Ocean-gate, Suite 12B, Long Beach, CA; St. Paul Fire and Marine Ins. Co.	Nov. 26, 1976	Jan. 27, 1977	Los Angeles, CA; \$50,000
The F & M Schaefer Brewing Co., 1101 S. Conkling St., Baltimore, MD; Commercial Union Ins. Co.	July 1, 1977	July 22, 1977	Baltimore, MD; \$10,000
Fallek-Lankro Corp., No. 1 Warrior Rd., Tuscaloosa, AL; St. Paul Fire & Marine Ins. Co.	July 29, 1977	Aug. 3, 1977	New Orleans, LA; \$10,000
General Electric Co., 570 Lexington Ave., New York, NY; Federal Ins. Co.	July 1, 1977	Aug. 15, 1977	New York Seaport; \$10,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Harbor Distributing Co., 19722 S. Alameda, Compton, CA; Sentry Indemnity Co. (PB 11/5/73) D 9/5/77 ³	July 18, 1977	Sept. 6, 1977	Los Angeles, CA; \$10,000
ICI America's Inc. One Murphy Rd., Wilmington, DE; Federal Ins. Co. (PB 8/9/74) D 12/8/77 ⁴	Dec. 8, 1977	Dec. 8, 1977	New York Seaport; \$10,000
Integrated Container Service, Inc., 522 Fifth Ave., New York, NY; American Motorists Ins. Co. (PB 9/2/70) D 9/16/77 ⁵	Sept. 16, 1977	Sept. 16, 1977	New York Seaport; \$10,000
Inter-American Shipping Corp., International Trade Mart Bldg., New Orleans, LA; Fidelity & Deposit Co. of MD D 8/29/77	Nov. 10, 1972	Dec. 6, 1972	New Orleans, LA; \$10,000
International Marine Management Inc. (A DE Corp.) San Juan, PR; American Motorists Ins. Co. (PB 1/12/77) D 12/19/77 ⁶	Dec. 19, 1977	Dec. 19, 1977	New York Seaport; \$10,000
Johnson & Nephew (North America) Inc., 960 South Springfield Ave., Springfield, NJ, Peerless Ins. Co.	Oct. 18, 1977	Oct. 18, 1977	New York Seaport; \$10,000
Jones Chemicals, Inc., 100 Sunny Sol Blvd., Caledonia, NY; Seaboard Surety Co.	Dec. 13, 1977	Dec. 14, 1977	New York Seaport; \$10,000
H. A. Lavezzi Co., Inc., 8500 Alvarado Ave., La Mesa, CA; Sentry Indemnity Co.	July 18, 1977	Sept. 9, 1977	Los Angeles, CA; \$10,000
Martec International Trading Corp., 1 World Trade Center, New York, NY; Peerless Ins. Co.	Nov. 28, 1977	Nov. 30, 1977	New York Seaport; \$10,000
Marubeni America Corp., 200 Park Ave., New York, NY; Peerless Ins. Co. (PB 1/1/72) D 9/13/77	May 17, 1977	Feb. 24, 1978	Los Angeles, CA; \$50,000
Merck & Co., Inc., P.O. Box 2000, Rahway, NJ; Federal Ins. Co.	Jan. 11, 1978	Jan. 19, 1978	New York Seaport; \$20,000
Modugno Distributors (A CA Corp.) 701 San Fernando Rd., San Fernando, CA; St. Paul Fire & Marine Ins. Co. D 9/13/77	May 27, 1976	June 8, 1976	Los Angeles, CA; \$10,000
Nedlloyd Inc., 5 World Trade Center, New York, NY; Federal Ins. Co. (PB 9/8/69) D 9/8/77 ⁷	Sept. 8, 1977	Sept. 9, 1977	New York Seaport; \$10,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
North American Maritime Agencies, 100 California St., Suite 1060, San Francisco, CA; Washington International Ins. Co.	Oct. 30, 1977	Nov. 14, 1977	San Francisco, CA; \$10,000
Norton, Lilly & Co., Inc., 90 West St., New York, NY; Peerless Ins. Co.	Dec. 23, 1977	Dec. 27, 1977	New York Seaport; \$10,000
Ontario Paper Co. Ltd., Thorold, Ontario, Canada; St. Paul Fire & Marine Ins. Co. (PB 4/1/77) D 12/13/77 *	Oct. 1, 1977	Dec. 13, 1977	Buffalo, NY; \$10,000
Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH; U.S. Fidelity & Guaranty Co.	Sept. 16, 1976	Sept. 16, 1976	Tampa, FL; \$10,000
P.F.G. Industries, Inc., (Caribe) P.O. Box 3472, Ponce, PR; Federal Ins. Co.	Mar. 1, 1977	Mar. 16, 1977	San Juan, PR; \$10,000
Port of New York Cartage Co., Inc., 250 North Avenue East, Elizabeth, NJ; Peerless Ins. Co.	Jan. 11, 1978	Jan. 24, 1978	New York Seaport; \$10,000
Rhodia, Inc., 600 Madison Ave., New York, NY; Peerless Ins. Co.	Mar. 1, 1978	Feb. 17, 1978	New York Seaport; \$20,000
Saccone & Speed (USA) Inc., 3 Park Plaza, Old Brookville, New York, NY; St. Paul Fire & Marine Ins. Co.	Feb. 24, 1978	Feb. 24, 1978	New York Seaport; \$10,000
Scandinavian Continental Line (North America) Inc., 39 Broadway, New York, NY; American Motorists Ins. Co. (PB 9/8/75) D 8/16/77 *	Aug. 16, 1977	Aug. 22, 1977	New York Seaport; \$10,000
Scott Environmental Technology, Inc., Route 611, Plumsteadville, PA; Federal Ins. Co. D 2/21/73	Feb. 21, 1975	Feb. 25, 1975	New York Seaport; \$10,000
Sea-Land Service, Inc., 10 Parsonage Rd., P.O. Box 900, Edison, NJ; Federal Ins. Co. (PB 11/1/76) D 10/27/77 **	Nov. 1, 1977	Oct. 27, 1977	New York Seaport; \$10,000
Seagroup, Inc., 505 Park Ave., New York, NY; Ins. Co. of North America.	Dec. 21, 1977	Jan. 13, 1978	New York Seaport; \$10,000
Southland Beverage Dist., Inc., 711 E. Sycamore, Anaheim, CA; Sentry Indemnity Co. (PB 2/4/74) D 9/1/77 **	Aug. 16, 1977	Sept. 2, 1977	Los Angeles, CA; \$10,000
Star Lines Shipping Co., Inc., 77 Water St., New York, NY; Peerless Ins. Co.	Sept. 23, 1977	Sept. 28, 1977	New York Seaport; \$10,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, IL; St. Paul Fire & Marine Ins. Co.	Dec. 13, 1977	Dec. 15, 1977	New Orleans, LA; \$10,000
Colon Y. Villalon, Inc., 104 Paseo Covadonga, San Juan, PR; The Fidelity and Casualty Co. of NY D 5/20/76	Dec. 18, 1969	Dec. 19, 1969	San Juan, PR; \$20,000
Virginia Chemicals, Inc. (A ME Corp.) 3340 West Norfolk Rd., Portsmouth, VA; Peerless Ins. Co.	Sept. 16, 1977	Sept. 19, 1977	Norfolk, VA; \$10,000
Wacker Chemical Corp., 964 Third Ave., New York, NY; Peerless Ins. Co. D 10/25/77	Nov. 4, 1974	Nov. 6, 1974	New York Seaport; \$10,000
Weyerhaeuser Co., Tacoma, WA; Washington International Ins. Co.	June 15, 1977	June 23, 1977	Seattle, WA; \$10,000
White Lamb Finlay, Inc. (A NY Corp.) 52 Upper Montclair Plaza, Upper Montclair, NJ; Peerless Ins. Co. D 10/11/77	Oct. 24, 1975	Nov. 3, 1975	New York Seaport; \$10,000
Julius Wile Sons & Co., Inc., 320 Park Ave., New York, NY; Federal Ins. Co. (PB 10/21/71) D 10/27/77 ¹³	Sept. 29, 1977	Oct. 27, 1977	New York Seaport; \$10,000
Wisdom Beverage, (A CA Corp.) 23532 Belle Porte Ave., Harbor City, CA; St. Paul Fire & Marine Ins. Co. D 9/13/77	Mar. 19, 1974	Mar. 28, 1974	Los Angeles, CA; \$10,000

¹ Principal is Best Way Distributing Co.

Surety is Peerless Ins. Co.

² Principal is D.C. Andrews Int'l Inc. d/b/a Emery Customs Borkers

³ Surety is Peerless Ins. Co.

⁴ Principal is ICI United States, Inc.

⁵ Surety is Federal Ins. Co.

⁶ Principal is Puerto Rico Marine Management, Inc. (A DEL Corp.)

⁷ Principal is Nedlloyd Lines, Inc.

Surety is St. Paul Fire and Marine Ins. Co.

⁸ Surety is Fidelity and Deposit Co.

⁹ Principal is Scandinavian Continental Line (New York) Inc. (A NY Corp.)

¹⁰ Surety is American Motorists Ins. Co.

¹¹ Surety is Peerless Ins. Co.

¹² Surety is Fireman's Ins. Co. of Newark, NJ

(BON-3-10)

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

(T.D. 78-90)

Bonds

Approval and discontinuance of bonds for the control of identified shipping containers

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 13, 1978.

The following bonds for the control of identified shipping containers have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director of Customs
Joseph E. Seagram & Sons, Inc., 375 Park Ave., New York, NY; Federal Ins. Co. (PB 8/18/67) D 8/18/77 ¹	Aug. 18, 1977	Aug. 19, 1977	Baltimore, MD; \$10,000
Sea-Land Service, Inc., 10 Parsonage Rd., P.O. Box 900, Edison, NJ; Federal Ins. Co. (PB 7/23/69) D 10/27/77 ²	Oct. 26, 1977	Oct. 27, 1977	New York Seaport; \$10,000

¹ Surety is The Travelers Indemnity Co. Principal is The House of Seagram, Inc.

² Surety is American Motorists Ins. Co.

(BON-3-10)

LEONARD LEHMAN,
*Assistant Commissioner,
Regulations and Rulings.*

(T.D. 78-91)

Bonds

Approval and discontinuance of Carrier bonds, Customs Form 3587

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 13, 1978.

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Acme Carriers, Inc., 216 Third Avenue, Brooklyn, NY; motor carrier, Peerless Ins. Co. (PB 1/27/84) D 1/27/78 ¹	Jan. 27, 1978	Jan. 27, 1978	New York Seaport; \$25,000
Bay & Bay Transfer Co., Inc., 805 N. Fourth St., Minneapolis, MN; motor carrier, Federal Ins. Co. D 2/21/78	Oct. 27, 1969	Dec. 2, 1969	Minneapolis, MN; \$30,000
Bulk Haulers, Inc., 27 Airport Rd., Nashua, NH; motor carrier, New Hampshire Ins. Co. D 3/1/78	Feb. 22, 1974	July 19, 1974	Portland, ME; \$50,000
Central Motor Lines, Inc., Box 10303, Charlotte, NC; Motor carrier, Ins. Co. of North America	Feb. 24, 1977	Jan. 4, 1978	Charleston, SC; \$25,000
Commercial Motor Freight, Inc. of Indiana, 2141 S. High School Rd., P.O. Box 41719, Indianapolis, IN; motor carrier, U.S. Fidelity & Guaranty Co.	Feb. 7, 1978	Feb. 21, 1978	Chicago, IL;
William Corbitt, Inc., 129 Davidson Ave., Somerset, NJ; motor carrier, Fidelity & Deposit Co. of MD D 2/17/78	June 2, 1975	Aug. 15, 1975	New York Seaport; \$50,000
Crown Motor Lines, Inc., 2225 Broadway Ave., Jacksonville, FL; motor carrier, The Aetna Casualty & Surety Co. (PB 11/10/76) D 12/8/77 ²	Oct. 20, 1977	Dec. 8, 1977	Tampa, FL; \$25,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Crown Transport, Inc., R.D. 2, Wampum, PA; motor carrier, American Ins. Co.	May 16, 1977	Feb. 9, 1978	Minneapolis, MN; \$25,000
Daily Express, Inc., P.O. Box 39, Carlisle, PA; motor carrier, Protective Ins. Co. (PB 5/1/72) D 5/1/77 ³	April 20, 1977	April 27, 1977	Baltimore, MD; \$50,000
Dallas and Mavis Forwarding Co., Inc., P.O. Box 160, Kenosha, WI; motor carrier, American Motorists Ins. Co. (PB 10/1/76) D 9/30/77 ⁴	Oct. 1, 1977	Oct. 31, 1977	Milwaukee, WI; \$25,000
Delaware Ship Supply Co., Inc., 1820-26 S. 4th St. Philadelphia, PA; motor carrier, Federal Ins. Co. D 12/16/77	Jan. 28, 1976	Feb. 4, 1976	Philadelphia, PA; \$25,000
Eastern Motor Lines, Inc., P.O. Box 2686, Spartanburg, SC; motor carrier, St. Paul Fire & Marine Ins. Co. D 2/15/78	Jan. 8, 1974	Jan. 14, 1974	Charleston, SC; \$25,000
Follrath Delivery Service, Inc., 3000 Hirsch St., Melrose Park, IL; motor carrier, National Surety Corp.	Jan. 6, 1978	Feb. 9, 1978	Chicago, IL; \$65,000
Great Western Airlines, Inc. Rt. 5, Riverside Airport, Tulsa, OK; air carrier, St. Paul Fire & Marine Ins. Co.	Dec. 9, 1977	Jan. 4, 1978	Chicago, IL; \$25,000
John J. Greene, Truck Broker, P.O. Box 353, Mims, FL; motor carrier, Sentry Indemnity Co.	May 10, 1977	Feb. 6, 1978	Tampa, FL; \$25,000
Groome Transportation, Inc., Byrd International Airport, Richmond, VA; motor carrier, U.S. Fire Ins. Co. (PB 1/13/73) D 1/13/78 ⁵	Jan. 13, 1978	Jan. 13, 1978	Norfolk, VA; \$25,000
Haulmark Transfer, Inc., P.O. Box 343, Cockeysville, MD; motor carrier, St. Paul Fire & Marine Ins. Co.	Jan. 1, 1978	Jan. 30, 1978	Baltimore, MD; \$50,000
Imperial Van Lines, Inc., 2805 Columbia St., Terrence, CA; motor carrier, Safeco Ins. Co. of America. (PB 12/6/73) D 4/28/77 ⁶	Apr. 20, 1977	Apr. 28, 1977	Baltimore, MD; \$50,000
Knox Motor Service, Inc., P.O. Box 359, Rockford, IL; motor carrier, Continental Casualty Co. D 1/18/78	Jan. 18, 1968	Mar. 8, 1968	Milwaukee, WI; \$25,000
Kenneth Levari & Frank Pagluighi t/a General Transfer Co., East Landis Ave., Vineland NJ; motor carrier, The Home Indemnity Co. D 2/28/78	Sept. 17, 1974	Sept. 27, 1974	Philadelphia, PA; \$25,000
Law Motor Freight, Inc., 27 Airport Rd., Nashua, NH; motor carrier, New Hampshire Ins. Co. D 3/1/78	Feb. 22, 1974	July 19, 1974	Portland, ME; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Lipshutz Brothers, Inc., 1310-12 North Fourth St., Philadelphia, PA; motor carrier, Fidelity & Deposit Co.	Aug. 16, 1977	Aug. 18, 1977	Philadelphia, PA; \$25,000
Arthur Altnow d/b/a Lodi Truck Service, P.O. Box 111, Lodi, CA; motor carrier, Aetna Casualty & Surety Co. (PB 9/27/75) D 1/23/78	Dec. 12, 1977	Feb. 7, 1978	San Francisco, CA; \$50,000
Boyd Mahaffey d/b/a Mahaffey Trucking, 1220 River Drive North, Great Falls, MT; motor carrier, St. Paul Fire & Marine Ins. Co. D 2/10/78	Jan. 24, 1975	Jan. 31, 1975	Great Falls, MT; \$25,000
Maislin Bros. Transport (US) Ltd., State Highway #20, E. Rutherford, NJ; motor carrier, St. Paul Fire & Marine Ins. Co. D 1/23/78	July 29, 1968	July 31, 1968	New York Seaport; \$25,000
Maislin Transport Ltd., 7401 Newman Blvd., La Salle, P.Q. Canada; motor carrier, St. Paul Fire & Marine Ins. Co. D 1/23/78	Dec. 11, 1969	Dec. 11, 1969	New York Seaport; \$25,000
Midwest Transportation Co., 2802 Avenue B, Council Bluffs, IA; motor carrier, Hartford Accident & Indemnity Co. D 1/12/78	Dec. 1, 1976	Dec. 7, 1976	Chicago, IL; \$50,000
Richard F. Millar Trucking, 1075 East 5th South, Pleasant Grove, UT; motor carrier, Northwestern National Ins. Co.	Nov. 29, 1977	Feb. 3, 1978	San Francisco, CA; \$25,000
Mushroom Transportation Co., Inc., 845 E. Hunting Park Ave., Philadelphia, PA; motor carrier, The Hanover Insurance Co. (PB 6/11/76) D 1/23/78	Jan. 29, 1978	Jan. 30, 1978	Philadelphia, PA; \$50,000
Nu Carr Carriers, Inc., P.O. Box 172, Bryn Mawr, PA; motor carrier, Fidelity Deposit Co. D 1/12/78	Dec. 21, 1976	Apr. 10, 1977	Philadelphia, PA; \$25,000
Osborne West, Ltd., P.O. Box 2329, Dublin, CA; motor carrier, Transport Indemnity Co. D 10/25/77	June 15, 1977	July 12, 1977	San Francisco, CA; \$25,000
Raymond J. Francis d/b/a Port Transport, 415 West 30th St., National City, CA; motor carrier, St. Paul Fire & Marine Ins. Co. (PB 9/14/70) D 6/16/76	Apr. 14, 1976	June 16, 1976	San Diego, CA; \$50,000
Porter Trucking Co., Inc., 370 Wampanoag Trail, East Providence, RI; motor carrier, Reliance Insurance Co. (PB 10/28/76) D 10/28/77	Oct. 28, 1977	Oct. 29, 1977	Providence, RI; \$25,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
A Joint Venture Consisting of: The Puerto Rico Maritime Shipping Authority (A Corp. operating under the laws of the Commonwealth of Puerto Rico), International Marine Management, Inc. & Puerto Rico Marine Management, Inc., San Juan, Puerto Rico; water carrier, American Motorist Ins. Co. (PB 12/24/74) D 12/18/77	Dec. 19, 1977	Feb. 7, 1978	San Juan, PR; \$100,000
Ringsby Pacific Ltd., 3980 Quebec St., Denver, CO; motor carrier, Liberty Mutual Ins. D 9/16/77	July 10, 1976	Aug. 25, 1976	San Francisco, CA; \$25,000
Searall, Inc., 701 South Royal St., Mobile, AL; motor carrier, Reliance Ins. Co.	Dec. 1, 1977	Feb. 21, 1978	Philadelphia, PA; \$25,000
Shepard's Inc., 32 Henry St., Bethel, CT; motor carrier, The Aetna Casualty & Surety Co.	Dec. 22, 1977	Jan. 4, 1978	Bridgeport, CT; \$50,000
Smith Transfer Co., Inc., P.O. Box 531, Wilco Blvd., Wilson, NC; motor carrier, U.S. Fidelity & Guaranty Co. D 2/14/78	Feb. 14, 1977	Feb. 15, 1977	Wilmington, NC; \$25,000
Taylor's Express Inc., 425 North 37th St., Pennsauken, NJ; motor carrier, Peerless Ins. Co.	Nov. 9, 1977	Jan. 3, 1978	Philadelphia, PA; \$50,000
Transconex, Inc., P.O. Box 524037, Miami, FL; motor carrier, Washington International Ins. Co.	Feb. 1, 1978	Feb. 1, 1978	Miami, FL; \$50,000
Tropical Customs Brokers, Inc., 2402 N.W. 72nd Ave., Miami, FL; motor carrier, Peerless Ins. Co.	Nov. 3, 1977	Feb. 15, 1978	Miami, FL; \$25,000
Van's Auto & Air Express, Inc., 601 Ulster Ave. Mall, Kingston, NY; motor carrier, American Manufacturers Mutual Ins. Co.	Dec. 9, 1977	Jan. 9, 1978	New York Seaport; \$75,000
Western Transportation Co., 1300 W. 35th St., Chicago IL; motor carrier, Great American Ins. Co. (PB 12/23/68) D 1/19/78 ¹⁰	Jan. 13, 1978	Jan. 19, 1978	Chicago, IL; \$25,000

¹ Surety is New Hampshire Ins. Co.

² Surety is Fireman's Fund Ins. Co.

³ Surety is Seaboard Surety Co.

⁴ Surety is Transport Indemnity Co.

⁵ Surety is The Travelers Indemnity Co.

⁶ Surety is St. Paul Fire & Marine Ins. Co.

⁷ Surety is Newark Ins. Co.

⁸ Surety is Ins. Co. of North America.

⁹ Surety is Aetna Casualty & Surety Co.

¹⁰ Surety is American Employers' Ins. Co.

(BON-3-03)

LEONARD LEHMAN
Assistant Commissioner,
Regulations and Rulings.

CUSTOMS

(T.D. 78-92)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds) Customs Form 7605

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 15, 1978.

The following consolidated aircraft bond has been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PG" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Name of principal and surety	Date term Commences	Date of Approval	Filed with area director of Customs; amount
Aer Lingus-Aerlinde Eieann TTA, 564 Fifth Avenue, New York, NY; American Home Assurance Co. (PB 11/16/67) D 2/23/78 ¹	Feb. 23, 1978	Feb. 24, 1978	New York Seaport; \$100,000

¹ Principal is Irish International Airlines (Aerlinde Eireann-TTA) Surety is Seaboard Surety Co.

The foregoing principal has been designated as a carrier of bonded merchandise.

(BON-3-01)

LEONARD LEHMAN,
*Assistant Commissioner,
Regulations and Rulings.*

(T.D. 78-93)

(520265/040518)

Change of practice regarding the tariff classification of men's or boys' cotton suits, not knit

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This document announces that the Customs Service is changing the current uniform and established practice of classifying

men's and boys' cotton suits, not knit, according to separate components rather than as entireties. That practice conflicts with the principles announced in a recent Customs Court decision and with the uniform practice of classifying all other men's and boys' suits and all women's and girls' suits as entireties. Therefore, effective June 27, 1978, it will be Customs practice to classify men's and boys' cotton suits, not knit, as entireties.

EFFECTIVE DATE: 90 days after publication in the Customs Bulletin which will take place on March 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5865).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 13, 1978, a notice of a proposal to change the Customs uniform and established practice of classifying men's and boys' cotton suits, not knit, according to separate components rather than as entireties, was published in the *FEDERAL REGISTER* (43 FR 2028).

Under a uniform and established practice, the Customs Service has classified importations of men's and boys' cotton suits, not knit, according to the tariff provisions for each separate component, rather than classifying the suits as entireties. However, importations of all other men's and boys' suits and importations of all women's and girls' suits are uniformly classified as entireties.

The United States Customs Court, in *J. C. Penney Purchasing Corp. v. United States*, C.D. 4671 (1976), held that certain women's wearing apparel sets are classifiable as entireties for tariff purposes. The court noted that the clothing sets were designed, purchased, imported, and invoiced as a unit. The component pieces of each set were coordinated or matched as to color and size, and always were advertised and sold as sets. The description of these sets appears to describe, for the purpose of classification as entireties, men's and boys' cotton suits, not knit.

In view of the decision in *J. C. Penney Purchasing Corp.* and the uniform practice of classifying all other suits of clothing as entireties, the practice of classifying men's and boys' cotton suits, not knit, according to the tariff provisions for each separate component is clearly wrong. The Customs Service is now changing this practice.

DOCTRINE OF ENTIRETIES

For tariff classification purposes, the Customs Service considers certain articles as "entireties" even though the articles consist of

several components for which there are separate provisions in the Tariff Schedules of the United States. If such an article is considered an entirety, the article (consisting of several components) is assessed duty at the time of importation as one complete article under the appropriate tariff classification.

In general, an article consisting of several components may be considered an entirety if all the components are imported together, designed for use together, and marketed as a unit, and if the article has a use or character different from that of the components as separate items. The fact that the components have commercial value as separate items does not preclude the application of the doctrine of entireties.

DISCUSSION OF COMMENTS

Interested parties were given until February 13, 1978, to submit data, views, or arguments with respect to the proposal. Two comments were received in response to the notice.

Both commenters were of the opinion that, since there are provisions for articles such as men's or boys' suits of wool, not knit (items 380.63 (statistical suffix 50) and 380.66 (statistical suffix 51-54), TSUS), and there is no similar provision for men's and boys' suits, of cotton, not knit, it was the intent of Congress to have the latter classified as separate components and not as entireties. It is the position of the Customs Service that there was no such Congressional intent since these statistical suffixes or "break-outs" are created by administrative, and not Congressional action.

DRAFTING INFORMATION

The principal author of this document was Sanford J. Parnes, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service and the Department of the Treasury participated in developing the document, both on matters of substance and style.

CHANGE OF PRACTICE

The Customs Service is changing its practice of classifying men's and boys' cotton suits, not knit, according to the separate components because there is an apparent inconsistency between this practice and the principles announced by the court in *J. C. Penney Purchasing Corp.* The Customs Service will now classify men's and boys'

cotton suits, not knit, as entireties. This action is in accordance with the practice by which all other men's and boys' suits and all women's and girls' suits are classified.

This change shall be effective as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after 90 days from the date of publication of this notice in the Customs Bulletin.

R. E. CHASEN,
Commissioner of Customs.

Approved March 14, 1978

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER March 20, 1978 (43 FR 11638)]

(T.D. 78-94)

Synopses of drawback decisions

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 6, 1978.

The following are synopses of drawback rates and amendments issued September 6, 1977, to October 17, 1977, inclusive, pursuant to sections 22.1 and 22.5, inclusive, Customs Regulations.

In the synopses below are listed, for each drawback rate or amendment approved under section 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the effective dates of exportation, the Regional Commissioner to whom the rate was forwarded, and the date on which it was forwarded.

(DRA-1-09)

LEONARD LEHMAN,
*Assistant Commissioner,
Regulations and Rulings.*

(A) Company: Aetna Industries, Inc.

Articles: Automotive parts

Merchandise: (1) cold rolled commercial and (2) drawing quality;
(3) hot rolled drawing quality steel coil and sheet
(S.A.E. 1008-1010)

Factories: Warren (3), Center Line (3), and Owosso (1), MI

Statement signed: July 5, 1977

Basis of claim: Appearing in

Effective date: Cold rolled commercial quality—August 1, 1975; and
Cold rolled drawing quality—March 6, 1975; Hot
rolled drawing quality—August 1, 1975

Rate forwarded to RC of Customs: Chicago, October 7, 1977

(B) Company: Air Products and Chemicals, Inc.

Articles: Copolymer vinyl acetate ethylene emulsion

Merchandise: Vinyl acetate monomer (assay 99.9 min.)

Factory: Dayton, NJ

Statement signed: July 13, 1977

Basis of claim: Used in

Effective date: June 27, 1977

Rate forwarded to RC of Customs: Baltimore, September 30, 1977

(C) Company: Air Products and Chemicals, Inc.

Articles: DABCO[®], DABCO 33-LV[™], and DABCO WT[™]

Merchandise: N-aminoethylpiperazine (AEP)

Factory: Paulsboro, NJ

Statement signed: March 23, 1977

Basis of claim: Used in, with distribution to the products obtained
in accordance with their relative values at the time
of separation

Effective date: December 11, 1976

Rate forwarded to RC of Customs: Baltimore, September 13, 1977

(D) Company: ASPRO, Inc.

Articles: Pulleys

Merchandise: Hot rolled, pickled and oiled, draw quality sheet steel

Factory: Canton, OH

Statement signed: August 15, 1977

Basis of claim: Appearing in

Effective date: February 10, 1975

Rate forwarded to RC of Customs: Chicago, September 6, 1977

Revokes: T.D. 77-29-B, superseded

(E) Company: Bristol Alpha Corp.

Articles: Amoxicillin trihydrate pharmaceutical preparation

Merchandise: Amoxicillin trihydrate

Factor: Barceloneta, PR

Statement signed: July 18, 1977

Basis of claim: Used in

Effective date: April 1, 1976

Rate forwarded to RC of Customs: New York, September 8, 1977

(F) Company: Burlington Industries, Inc.

Articles: Dyed and undyed texturized polyester, nylon and acetate yarn

Merchandise: Undyed polyester filament yarn; undyed texturized polyester yarn; undyed nylon filament yarn; undyed texturized nylon yarn; undyed acetate filament yarn; and undyed texturized acetate yarn

Factories: Oxford, Wilson, Mayodan, Goldsboro, Madison, Highpoint and Stoneville, NC; Mountain City, TN; and Milledgeville, GA

Statement signed: July 15, 1977

Basis of claim: Appearing in

Effective date: September 1, 1973

Rate forwarded to RC of Customs: New York, October 3, 1977

(G) Company: Ciba-Geigy Corp.

Articles: Irgasan CF3 - A Bacteriostat

Merchandise: o-Chlorobenzotrifluoride (OCBFT)

Factories: McIntosh, AL; and Cranston, RI

Statement signed: June 13, 1977

Basis of claim: Used in

Effective date: January 1, 1975

Rate forwarded to RC's of Customs: New York and Baltimore, September 13, 1977

(H) Company: The Dow Chemical Co.

Articles: Methyl Chloride, Methylene Chloride, Chloroform

Merchandise: Methanol

Factories: Midland, MI; and Plaquemine, LA

Statement signed: April 12, 1977

Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation

Effective date: June 1, 1976

Rate forwarded to RC of Customs: Chicago, October 7, 1977

(I) Company: The Dow Chemical Co.

Articles: Triethylene glycol; Tetraethylene glycol

Merchandise: Diethylene glycol

Factory: Freeport, TX

Statement signed: August 26, 1977

Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation

Effective date: Triethylene glycol—April 15, 1977; Tetraethylene glycol—March 24, 1977

Rate forwarded to RC of Customs: Chicago, September 6, 1977

(J) Company: E. I. du Pont de Nemours & Co.

Articles: N-ethyl-m-toluidine technical; N,N-diethyl-m-toluidine technical

Merchandise: Meta-nitrotoluene

Factories: Chambers Works and Deepwater, NJ

Statement signed: July 8, 1977

Basis of claim: Appearing in

Effective date: May 15, 1975

Rate forwarded to RC of Customs: Baltimore, October 4, 1977

(K) Company: Engelhard Minerals & Chemicals Corp., Philipp Brothers Div.

Articles: Molybdc oxide

Merchandise: Molybdenite concentrates

Factories: Through agents under rates of drawback under section 1313(b)

Statement signed: July 8, 1977

Basis of claim: Appearing in

Effective date: March 15, 1976

Rate forward to RC of Customs: New York, September 21, 1977

(L) Company: Ford Motor Co.

Articles: Automobiles: trucks and buses; and parts and assemblies thereof

Merchandise: Hot rolled steel bars—SAE-1039, SAE-1541 and SAE-1541H

Factories: Canton, OH; Dearborn, MI; and Maumee, OH

Statement signed: August 30, 1977 (sections 2d and 5e)

Basis of claim: Used in, less valuable waste

Effective date: As to steel bars, SAE-1039, February 1, 1975; as to steel bars, SAE-1541 and 1541H, November 1, 1973; as to operations at the Maumee, OH, factory, June 26, 1974

Amendment forward to RC Customs: Chicago, September 16, 1977

Amends: T.D. 73-26-A, consolidated statement subscribed to on August 25, 1971

(M) Company: General Electric Co.

Articles: Switchgear equipment (air and oil circuit breakers, metal enclosed switchgear and isolated phase bus)

Merchandise: Porcelain bushings and insulators; cold rolled and hot rolled steel sheet; cold rolled steel commercial quality; and cold rolled steel drawing quality

Factories: Philadelphia, PA; and West Burlington, IA

Statement signed: May 19, 1977

Basis of claim: Appearing in

Effective date: As to porcelain bushings and insulators, November 1, 1974; as to sheet steel, January 1, 1975

Rate forwarded to RC of Customs: New York, September 13, 1977

(N) Company: General Electric Co.

Articles: Transformers

Merchandise: Paper insulated, film coated, rectangular, copper strand, transposed cable

Factory: Pittsfield, MA

Statement signed: March 7, 1977

Basis of claim: Appearing in

Effective date: August 6, 1973

Rate forwarded to RC of Customs: New York, September 30, 1977

(O) Company: General Mills, Inc.

Articles: Blended and graded, or cleaned, blended and graded sunflower seeds Class II, Grades 1 through 3

Merchandise: Sunflower seeds, Class II, Grades 1 through and including 3

Factories: Carlisle, IA; Buffalo, NY; Chicago, IL; Great Falls, MT; Los Angeles, CA; Johnson City, TN; Kansas City, MO; Enid, OK; Vallejo, CA; Duluth, MN; Minneapolis, MN; and Pocatello, ID

Statement signed: January 17, 1977

Basis of claim: Appearing in as to blended and graded seed; Used in as to cleaned, blended, and graded seed, with distribution to the products obtained in accordance with their relative values at the time of separation

Effective date: April 15, 1976

Rate forwarded to RC of Customs: Chicago, October 4, 1977

(P) Company: Hooker Chemicals & Plastics Corp., Ruco Div.

Articles: Polyvinyl chloride (PVC) compounds

Merchandise: Acryloid KM-636 impact modifier

Factory: Burlington, NJ

Statement signed: March 7, 1977

Basis of claim: Appearing in

Effective date: September 1, 1973

Rate forwarded to RC of Customs: New York, September 8, 1977

(Q) Company: Mack Trucks, Inc.

Articles: Trucks; tractors; truck-tractors; fire apparatus; buses; off-highway equipment; replacement assemblies or component parts (Mack products)

Merchandise: Automotive component parts

Factories: Allentown, PA; Hagerstown, MD; Somerville, NJ; Cortland, NY; and Hayward, CA

Statement signed: August 23, 1977

Basis of claim: Used in

Effective date: September 1, 1963

Amendment forwarded to RC of Customs: Baltimore, September 21, 1977

Amends: T.D. 50145-N, as amended, in particular, by T.D. 71-74-Y

(R) Company: Manning Fabrics Inc.

Articles: Upper materials for footwear

Merchandise: Greige goods—100% carded cotton

Factory: St. Pauls, NC

Statement signed: June 30, 1977

Basis of claim: Used in

Effective date: February 27, 1977

Rate forwarded to RC of Customs: Miami, September 6, 1977

(S) Company: RMI Co.

Articles: Titanium and titanium alloy mill products

Merchandise: Aluminum-Vanadium master alloy

Factory: Niles, OH

Statement signed: April 1, 1977

Basis of claim: Appearing in
Effective date: November 10, 1974
Rate forwarded to RC of Customs: New York, September 8, 1977
Revokes: T.D. 77-76-W, superseded

(T) Company: Reichhold Chemicals, Inc.
Articles: Polyamide epoxy hardener
Merchandise: Tetraethylene pentamine
Factory: Andover, MA
Statement signed: October 21, 1976
Basis of claim: Used in
Effective date: August 22, 1974
Amendment forwarded to RC of Customs: New York, September 22, 1977

Amends: T.D. 75-277-G, as amended, to cover additional articles, merchandise, and factories

(U) Company: Roscoe Moss Co.
Articles: Pipe for water wells castings and screens (welded steel)
Merchandise: Steel plates or coils (ASTM A-36, A-283 D for plates and coils; ASTM A-569 and A-570 C & D for some coils)
Factory: Los Angeles, CA
Statement signed: August 5, 1977
Basis of claim: Appearing in
Effective date: January 1, 1974
Rate forwarded to RC of Customs: Los Angeles, October 17, 1977
Revokes: T.D. 75-208(S), superseded

(V) Company: A.O. Smith Harvestore Products, Inc.
Articles: Harvestore systems (glass-coated steel storage units) and components, sub-assemblies and parts thereof
Merchandise: Hot rolled steel sheet and plate
Factories: Kankakee and DeKalb, IL
Statement signed: September 9, 1977
Basis of claim: Appearing in
Effective date: June 16, 1970
Rate forwarded to RC of Customs: Chicago, September 21, 1977
Revokes: T.D. 75-277-J, superseded

(W) Company: A.O. Smith Corp.
Articles: Water heaters, sub-assemblies, components, and/or parts thereof; hydronic boilers, sub-assemblies, components, and/or parts thereof; and glass-lined water storage tanks, sub-assemblies, components, and/or parts thereof

Merchandise: Cold rolled steel strip and sheet, and hot rolled steel sheet, strip and plate

Factory: Kankakee, IL

Statement signed: September 9, 1977

Basis of claim: Appearing in

Effective date: August 22, 1969

Rate forwarded to RC of Customs: Chicago, September 22, 1977

Revokes: T.D. 76-70-M, superseded

(X) Company: Spun Steel (Alabama), Inc.

Articles: Pulleys

Merchandise: Hot rolled, pickled and oiled, draw quality sheet steel

Factory: Dothan, AL

Statement signed: August 15, 1977

Basis of claim: Appearing in

Effective date: February 10, 1975

Rate forwarded to RC of Customs: New Orleans, September 26, 1977

Revokes: Customs letter dated September 6, 1977, superseded

(Y) Company: Sun Chemical Corp.

Articles: Organic pigments

Merchandise: Dye intermediates in various ratios

Factories: Cincinnati, OH; New York, NY; and Newark, NJ

Statement signed: August 12, 1977

Basis of claim: Used in

Effective date: March 24, 1975

Amendment issued to RC of Customs: New York, September 8, 1977

Amends: T.D.'s 76-249-Q and 77-76-X—variance in the ratio of use of the dye intermediates

(Z) Company: Westinghouse Electric Corp. Power Systems Co.

Articles: Combined nuclear throttle valve and control valve assembly; reheat and stop valve; valve stop and control

Merchandise: Carbon steel steam chest and throttle valve rough casting; and alloy steel reheat-stop valve body rough castings

Factory: Lester, PA

Statement signed: August 18, 1977

Basis of claim: Used in, less valuable waste

Effective date: September 1, 1974

Rate forwarded to RC of Customs: New York, September 22, 1977

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Customs Decisions

(C.D. 4736)

BRUCE DUNCAN CO., INC. *v.* UNITED STATES

Textile materials, coated

"COATED"—MEANING

Included in the standard to be utilized in determining whether a fabric is "coated" within the meaning of TSUS item 355.65 is that set out in Headnote 2(a) of Schedule 3, Part 4, Subpart C, that the material's surface be "visibly and significantly" affected. A "coated" fabric need not be completely coated.

TARIFF TERMS—COMMON AND COMMERCIAL MEANING

Tariff terms are to be construed in accordance with their common and commercial meaning which are presumed to be the same unless otherwise proved. *Floral Arts Studio, et al. v. United States*, 46 CCPA 21, C.A.D. 690 (1958).

Court No. 73-8-02401

Port of Chicago

[Judgment for plaintiff.]

(Decided March 2, 1978)

Tompkins & Davidson (Herbert T. Posner, Steven S. Weiser and Harvey A. Issacs of counsel) for the plaintiff.

Barbara Allen Babcock, Assistant Attorney General (*Joseph I. Liebman*, trial attorney), for the defendant.

LANDIS, Judge: This action involves merchandise imported in 1971 from West Germany, into the port of Chicago, Illinois and described on the customs invoice as "FUSIBLE INTERLINING CLOTH . . . coated with polyamide pin points."

The merchandise had been originally classified by Customs under TSUS item 326.12, as modified by Presidential Proclamation 3822, as "Woven fabrics, in chief value, but not wholly of cotton: containing (in addition to cotton) silk or man-made fibers, or both, but not containing other fibers: not fancy or figured; not bleached and not colored, at the rate of 10.49% ad valorem." However, at trial the defendant conceded the merchandise was in fact colored and without objection filed an amended answer admitting "the merchandise was in fact colored, and [stating it] should have been classified under item 328.12, TSUS, with duty assessed at the rate of 14.09 per centum ad valorem, pursuant to T.D. 68-9."

Plaintiff complains the merchandise should have been classified under item 355.65, TSUS, as modified by Presidential Proclamation and as "amended by Public Law 89-241, as woven or knit fabrics (except pile or tufted fabrics), of textile materials, coated or filled with rubber or plastics material, or laminated with sheet rubber or plastics: Of vegetable fibers, at the rate of 9% ad valorem."

Defendant argues the imported merchandise is not a coated fabric for the reason that the tariff meaning of the term "coated fabric" requires the entire surface to be covered with a continuous uninterrupted layer of coating material and that the imported merchandise is not such a fabric. However, it is my decision that plaintiff's claimed classification should be sustained.

The pertinent headnote of TSUS as appearing in Schedule 3, Part 4, Subpart C states:

2. For the purposes of the tariff schedules—

(a) the term "coated or filled", as used with reference to textile fabrics and other textile articles, means that any such fabric or other article has been coated or filled (whether or not impreg-

nated) with gums, starches, pastes, clays, plastics materials, rubber, flock, or other substances, so as to visibly and significantly affect the surface or surfaces thereof otherwise than by change in color, whether or not the color has been changed thereby;

The key words in this case are "visibly and significantly affect" and the definite weight of the record is that this standard has been met by plaintiff.

Four witnesses testified for the plaintiff and two witnesses were offered by the defendant. The evidence reveals the merchandise is a dyed and unnaped black fabric. It has been described as a fusible interlining cloth. The "35" at the end of the article style number (i.e. G503D35) reflects the addition of 35,000 points or "dots" per square foot each with an approximate diameter of 0.9 millimeters. The dots are not connected to one another but are connected with the fabric.

The reason for the dot covering is to provide "good body" and "good form" for the merchandise. The degree of covering determines the resilience of the fabric, whether the merchandise will be stiff or loose. Whether these dots form a "coating" constitutes the crux of this case.

The mechanics of applying the dots to the fabric is called a "coating printing process." The machinery utilized by the trade for the process is known as "coating fusible interlining equipment." The parties largely concur as to the nature of the process. The finished fabric is run over a heated roller. A second roller, engraved with small holes which contain a fine polyamide powder, is pressed against the first roller with the fabric in between. After the powder thus is deposited, the fabric is passed through an infrared heating. After being permitted to cool, the interlining is complete.

Plaintiff's first witness, Heinz Schneider, a much experienced official of the West German Corporation which manufactured and sold the merchandise, stated that the continuous intermittent regularly coated fabrics were developed by him and his company in 1957. He further reasoned, on the basis of the relevant headnote standard heretofore set forth (Schedule 3, Part 4, Subpart C, 2(a)) that the merchandise was "coated." As to the visibility criterion, the witness testified: "You can see [the coating material]." As to the other headnote criterion, the witness responded that the polyamide dots significantly affected the fabric because subsequent to the application, the possibility of fusing with another fabric existed. His significant testimony mentioned *supra*, together with his observations that the fabrics have been considered "coated" since their development by his com-

pany from about 1967 to 1969 and that another German company deemed the merchandise coated too, remain uncontradicted. On the whole, Mr. Schneider's testimony was persuasive.

Similarly persuasive was the testimony of the importer's second witness, Jules Borrin, an executive of a domestic manufacturer of interlinings. According to him also, the material is referred to as "coated" within the tariff definition. "The visible effect," he noted on direct examination, "is a rough hand of dots, or, deposition," and the characteristics are changed. The merchandise is "significantly affect[ed]" by the application because "you couldn't use [it] unless it was going to be used" for the specific purpose of bonding.

Plaintiff's third witness, John W. Zettler, the general manager of a domestic corporation that manufactures and sells interlinings, contributed that the imported merchandise was coated and had a raised surface with "feel." Among the factors which contributed to his conclusion that the merchandise had been significantly affected was the consideration that the character of the cloth was changed and another dimension was added.

The fourth and final witness for the plaintiff, Dino G. Fusaro, vice-president in charge of designing and quality control of a men's clothing manufacturer, concurred that the material was "coated." He attributed his conclusion to the substrate or material, that the fabric had been coated with a chemical.

The Government countered with two witnesses, both employed by the U.S. Customs Service. The first, Richard Lutzer, was a textile analyst, an assistant chief of the Fibers Branch with only approximately six credits of instruction in dyeing and finishing; the second, George Barth, was an important specialist of all non-woven fabrics. Both witnesses, however, lacked solid credentials in the specific area of coated fabrics and consequently their testimony was of considerably less weight and credibility than that of the plaintiff's witnesses. Having seen and observed the various witnesses and having carefully considered their testimony, it is my firm conviction that plaintiff has sustained its burden of proof.

Besides the unpersuasive testimony of their two witnesses, prior judicial decisions and legislative history are proffered to persuade the Court that the Government's interpretation should prevail. However,

a careful examination of the decisions cited demonstrates that they are of an early date and not pertinent to the issue at hand.*

There is no question but that tariff terms are to be construed in accordance with their common and commercial meaning which are presumed to be the same unless otherwise proved. *Floral Arts Studio, et al. v. United States*, 46 CCPA 21, C.A.D. 690 (1958); Sturm, *A Manual of Customs Law*, page 202 and cases there cited.

It is the opinion of the Court that under the testimony of record the imported merchandise falls within the term coated fabrics as set forth in the applicable headnote, and as this was the only issue to be determined, it is the Court's conclusion that the merchandise is properly classifiable, as plaintiff contends, within item 355.65, TSUS, as modified.

Judgment will be entered accordingly.

*In *In re White Son Company*, 1 Synop. Dec. 348, T.D. 19037 (1898), the Board of General Appraisers, the predecessor of this Court, was concerned with the classification of certain bookbinders' cloth. The Board upheld classification of the merchandise under paragraph 311 of the 1897 Tariff Act as "cotton cloth, filled or coated." The decision was based on the factual finding that the coating treatment involved there "completely filled the interstices between the threads of the fabric and rendered it opaque." There was absolutely no discussion at all as to what the outcome would have been if the cloth, as at bar, was less than completely coated. The same analysis applies for *In re F. H. Shallus*, 4 Treas. Dec. 382, T.D. 22966 (1901). All that is proved by the Government's lengthy quotation from the *Shallus* opinion is that in that case the covering "so permeated the fiber and filled or closed the interstices between the threads of the fabric as to render it entirely opaque * * *." *Id.*, 382-83. The Court of Appeals for the Second Circuit considered the exact same statutory terminology in *United States v. Pinney, Casse & Lackey Co.*, 105 F. 934 (2d Cir. 1900), but the entire decision concentrated on the adjective "filled" not "coated." Whatever relevance the case has actually contradicts defendant's supposition since the Court read in the word "substantially" before "filled," not "completely."

In *Hudson Forwarding & Shipping Co. v. United States*, 18 CCPA 258, T.D. 44427 (1930), the issue was whether certain imitation lizard skin could be classified under paragraph 907 of the Tariff Act of 1922 as "waterproof cloth." Although the court ultimately decided that the proper classification was under the paragraph 907 provision for "filled or coated cotton cloths not specially provided for," neither the Appeals Court nor this Court (56 Treas. Dec. 669, T.D. 43750 (1929)) discussed whether the merchandise was "coated."

The last cited case, *Respro v. Vulcan Proofing Co.*, 1 F. Supp. 45 (E.D.N.Y. 1932), is a patent infringement case. Defendant's own emphasis of the Court's dicta, "*A coat is a layer proposition that is integrate throughout, and is not usually broken up in any way nor subdivided*" (emphasis added in the Government's brief, page 22, citing *Respro* at 48), demonstrates that reliance on the case is not helpful. If a coat is "not usually broken up in any way," obviously in some instances a coat may be interrupted. In any case, *Respro* is inapposite here:

The only case which even remotely supports the defendant is *Frank J. Markwaller & Co. et al. v. United States*, 65 Treas. Dec. 205, T.D. 46887 (1934), wherein was alternatively raised the question of whether certain cotton gauze bandages might be classified as "filled or coated cotton cloths not specially provided for" under paragraph 907 of the Tariff Act of 1930. While the Court did hold that the importer's claim under this paragraph was untenable, the significant factual difference between the gauze involved there and the interlining here disallows any *stare decisis* effect. The Markwaller Court emphasized that "the open spaces left between the threads are so pronounced and conspicuous as to give the fabric a sieve-like appearance." *Id.*, 207. Such a description would be wholly inaccurate for the merchandise here. On the law, Markwaller does not decide that "coated" means completely coated.

Decisions of the United States Customs Court

Review Decision

(A.R.D. 324)

ROSS GLOVE COMPANY *v.* UNITED STATES

Leather gloves

The trial court is affirmed in its conclusion that appellant failed to prove that the Belgian linings of these gloves were sold for exportation to the Philippines and further failed to prove the value of the linings in accordance with Philippine law, all of which prevented a determination that the value of the linings was less than 20% of the value of the gloves and precluded a finding that the gloves were Philippine articles entitled to a reduced rate of duty upon importation into the United States.

APPLICATION FOR REVIEW OF REAPPRAISEMENT DECISION 11778

Reappraisement R68/11664

Entered at Milwaukee, Wis.
Entry No. 1499-S.

FIRST DIVISION, APPELLATE TERM

[Affirmed.]

(Decided March 3, 1978)

Law offices *Treumann; Barnes, Richardson & Colburn*, associate counsel; *Walter Treumann, Mark F. Sheridan* and *Joseph Schwartz* of counsel; for the appellant.

Barbara Allen Babcock, Assistant Attorney General (*Wesley K. Caine* and *William Atkins*, trial attorneys), for the appellee.

Before RE, Chief Judge, WATSON and MALETZ, Judges

WATSON, Judge: This is one of the last cases to be decided under a former procedure of this court by which decisions of a single judge

regarding the value of merchandise were reviewed by a panel of three other judges of the same tribunal.¹

In this instance the question was whether certain gloves imported from the Philippines were "Philippine articles", a circumstance which would entitle them to a reduced rate of duty under a trade agreement in effect between the United States and the Republic of the Philippines.² At the heart of the dispute was the question of the value of the gloves' rabbit fur linings, which originated in Belgium and which could not have a value greater than 20% of the value of the gloves if the gloves were to remain Philippine articles within the meaning of the trade agreement.

¹ 28 U.S.C. § 2636(a).

² Philippine Trade Agreement Revision Act of 1955, 69 Stat. 413-24:

SEC. 201 AUTHORITY TO REVISE THE 1946 AGREEMENT.

In order to make revisions proposed by the delegations of the Governments of the United States of America and of the Republic of the Philippines in the "Final Act of Negotiations Relative to Revision of the 1946 Trade Agreement Between the United States of America and the Republic of the Philippines" signed at Washington, December 15, 1954, as corrected, the President of the United States is hereby authorized to enter into an agreement with the President of the Philippines revising the executive agreement concerning trade and related matters entered into by the President of the United States and the President of the Philippines on July 4, 1946, so that such executive agreement, as so revised, will read as follows:

"AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES³
CONCERNING TRADE AND RELATED MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE
INSTITUTION OF PHILIPPINE INDEPENDENCE, SIGNED AT MANILA ON JULY 4, 1946, AS REVISED

"ARTICLE I

"2. The ordinary customs duty to be collected on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in the Schedule to Paragraph 2 of Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol:

"(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, twenty per centum.

"PROTOCOL TO ACCOMPANY THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE
REPUBLIC OF THE PHILIPPINES CONCERNING TRADE AND RELATED MATTERS DURING A TRANSI-
TIONAL PERIOD FOLLOWING THE INSTITUTION OF PHILIPPINE INDEPENDENCE, SIGNED AT MANILA
ON JULY 4, 1946, AS REVISED

"1. For the purpose of the Agreement—

"(f) The term 'Philippine article' means an article which is the product of the Philippines, unless, in the case of an article produced with the use of materials imported into the Philippines from any foreign country (except the United States) the aggregate value of such imported materials at the time of importation into the Philippines was more than twenty per centum of the value of the article imported into the United States, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the United States in effect at the time of importation of such article. As used in this Subparagraph the term 'value', when used in reference to a material imported into the Philippines, includes the value of the material ascertained under the customs laws of the Philippines in effect at the time of importation into the Philippines, and, if not included in such value, the cost of bringing the material to the Philippines, but does not include the cost of landing it at the port of importation, or customs duties collected in the Philippines. * * *

The single judge found the appellant had failed to satisfy its burden of proving the value of the linings under Philippine law; in particular determining a failure to prove the Belgian linings were sold for exportation to the Philippines and a failure to prove the linings were freely sold by the Belgian manufacturer at the claimed price of \$4.82 per dozen pairs.

Appellant asserts the trial judge erred in reaching the above conclusions, in allegedly not applying the relevant Philippine law and in excluding evidence of a sales transaction between appellant and other Belgian manufacturers of rabbit fur linings.

As noted, the valuation of the fur linings is to be accomplished under Philippine law.³ That law provides for duty to be assessed on the market value or price at which the same, like or similar article is freely offered for sale in the principal markets of the exporting country for exportation to the Philippines.

The trial judge was correct in finding a failure of proof that this merchandise was sold for exportation to the Philippines. Although he emphasized the absence of any mention of the Philippines in the contract of sale between Destelbergen, the seller, and appellant, we do not take this as an indication that the required proof must come from the contract or invoice. In fact, it could well come from another source such as a witness associated with the buyer.

However in this instance, in the confusion engendered by the contract of sale and the provisions for handling of the invoice, it behooved appellant's witness Ross to go beyond the simple declaration that the linings bought from Destelbergen were always shipped to the Philippines or that the merchandise did in fact arrive in the Philippines.

The contract of sale was between Destelbergen and appellant, Ross Glove Company of Sheboygan, Wisconsin (Ross Sheboygan).

³ Tariff and Customs Code of the Philippines, Republic Act No. 1937.

SEC. 201. *Basis of Dutiable Value.*—Whenever an imported article is subject to an *ad valorem* rate of duty, the duty shall be assessed upon the market value or price at which, at the time of exportation, the same, like or similar article is freely offered for sale in the principal markets of the exporting country for exportation to the Philippines, in the usual wholesale quantities and in the ordinary course of trade (excluding internal excise taxes to be remitted or rebated), plus ordinary expenses prior and incidental to the lading of such article on board the vessel or aircraft at the port of export (including taxes or duties, if any) and freight paid as well as insurance premium paid covering the transportation of such article to the port of entry in the Philippines.

When the value of the article cannot be ascertained in accordance with the preceding paragraph, the value shall be the domestic wholesale market value or selling price of the same, like or similar imported article in the principal market of the Philippines on the date of exportation of the article under appraisalment, in the usual wholesale quantities and in the ordinary course of trade, minus the import duty and other taxes as well as a commission not exceeding six *per centum* if any has been paid or contracted to be paid on goods secured otherwise than by purchase, and profits not to exceed eight *per centum* and a reasonable allowance for general expenses not to exceed eight *per centum* on purchased goods, and all other expenses incidental to the delivery from the port of importation to the principal market in the Philippines.

It provided for a down payment by Ross Sheboygan, the sending of invoices to Carla Trading Corporation, Ltd. in the Bahamas with copies to Ross Sheboygan, and delivery of the merchandise to a forwarding firm in Antwerp subject to the disposition of Ross Sheboygan. In the face of the plausible inference that shipment to the Philippines was entirely the work of appellant concerning which the seller had no knowledge, it would be reasonable to require appellant to produce evidence from which it could be inferred the seller made the sale for exportation to the Philippines.

Appellant cites its expert witness on Philippine law, Mr. Bito, for the proposition that a sale is for exportation to the Philippines if the goods are exported to the Philippines. This was not his testimony and ignores the fact goods may be shipped to places that are not within the contemplation of the seller. It is therefore not the fact of shipment to, or arrival in, the Philippines which is paramount but the fact the Philippines was the seller's contemplated destination for the merchandise.

Consequently, appellant's meticulous tracing of the shipment from Belgium to its bonded entry in the Philippines could not provide proof which must come from evidence relating to the sale and the intentions with which it was made, namely that it was made for exportation to the Philippines within the meaning of the Philippine law.

In sum, as elementary as proof of this point seems and as easily proven as it ordinarily ought to be, it is lacking in the somewhat tangled circumstances of this case. The trial judge was correct in pointing this out.

The trial judge was also correct in concluding appellant failed to prove the fur linings were freely sold by Destelbergen within the meaning of the Philippine statute. Interpretation of the Philippine law by reference to the similar United States law and cases decided thereunder was proper. *Daniel Lumber Co. v. Empresas Hondurenas, S.A.*, 215 F. 2d 465, 470 (5th Cir. 1954). See, for example, *Dunlap, et al. v. United States*, 43 CCPA 159, C.A.D. 624 (1956); *Veolay, Inc., J. E. Bernard & Co., Inc. v. United States*, 23 CCPA 101, T.D. 47766 (1935), *cert. denied*, 297 U.S. 711 (1935). There was no proof that Philippine law differed from United States law to any significant extent, certainly not to the extent of deriving an export value solely from the transaction in dispute or reaching a conclusion as to whether the same or similar merchandise was freely sold, only from the testimony of a buyer who did not display a familiarity with the overall practices of the seller.

In this respect, moreover, the trial judge was not bound by the expert witness' ultimate conclusions as to the value of these linings under Philippine law. That was a question for the judge to decide. *Finney v. Guy*, 189 U.S. 335 (1903). In addition, the witness' conclusion was at odds with the underlying analytical factors he expressed. He clearly stated that a determination that merchandise was "freely sold" would depend on proof that all who wanted to purchase could purchase; a factor which is evidently the same in Philippine law as in United States law. *F. B. Vandergrift & Co., Inc. v. United States*, 56 CCPA 105, C.A.D. 962, 410 F. 2d 1259 (1969). See also, *Mannesmann-Meer, Inc. v. United States*, 58 CCPA 6, C.A.D. 995, 433 F. 2d 829 (1970). Yet proof of this point was strikingly absent from the testimony of Ross. In its place was testimony limited to appellant's business relationship with Destelbergen which could hardly be viewed as revealing Destelbergen's conduct with respect to other willing purchasers. In fact, Ross' testimony contained suggestions the claimed price was arrived at by offer and counteroffer between Destelbergen and Ross, a procedure which would be at variance with the existence of a single price at which Destelbergen was willing to sell to everyone for export to the Philippines.

We do not read the trial judge's decision as faulting appellant's proof only because it did not bring forward testimony from the seller, nor does the decision express an absolute requirement that proof the merchandise was freely sold must come from the seller. Such an unvarying requirement would be error because the well-informed buyer may have sufficient familiarity with a seller's business conduct to provide persuasive testimony. Here, however, Mr. Ross gave no sign of being sufficiently familiar with Destelbergen's selling conduct to support a finding its fur linings were "freely sold". In that context the trial judge's characterization of the need for evidence from the seller as a "must" was accurate.

On the subject of the price at which such or similar fur linings were freely sold, the only remaining evidence was of sales by the Belgian firm of Scaldis to the firm of M. Frenville & Co. However, those sales were not relevant because they were sales to a selected purchaser and were not for export to the Philippines.

Appellant attempted to introduce evidence of its purchases of fur linings from a third Belgian seller, the firm of Block. Appellant offered as proof a letter from Block offering linings at \$4.95 for the months of April, May, June and July of 1962 and copies of invoices sent to

Carla Trading Corporation, Ltd. allegedly showing shipments of linings in March and April of 1962. The trial judge excluded this evidence because the March invoice did not have the year 1962 written on it and because no proof of payment by appellant in the form of canceled checks was offered.

The exclusion of this evidence was error although it was harmless. It was error because it required a degree of perfection in the proof of a sales transaction beyond that which is reasonable. The invoice for March lacked the year but could be chronologically placed, by virtue of the sequence of its bale numbers, with those on the April invoice (which did have the year 1962 on it), as well as by the direct testimony of the appellant's president. In addition, documentary proof of payment is not a prerequisite to the admission of other evidence as to the occurrence of a transaction. Whatever defects may be discerned in the evidence were not such as would render it inadmissible by any of the prevailing standards of admissibility although they might properly affect the weight given to it.

Although this exclusion was error, it was ultimately harmless because the tendency of the excluded evidence was to prove a lining price of \$4.95 per dozen, higher than the freely offered lining price of \$4.82 per dozen claimed to exist in the transaction at issue. The \$4.95 price might itself lead to a total value of the linings which is still less than 20% of the total value of the gloves. However, it was appellant's burden, not to prove a variety of costs and values, all falling under the 20% limitation, but to prove first and foremost that its claimed \$4.82 price was the price at which these linings were freely offered for sale. Proof of a higher price would not accomplish this.

For the above reasons the court makes the following findings of fact and reaches the following conclusions of law:

FINDINGS OF FACT

1. That the merchandise in issue consists of 624 dozen pairs of fur-lined men's leather gloves which were manufactured in the Philippines with fur linings which were not of Philippine or United States origin, and which were exported from the Philippines to the United States on or about August 31, 1962;

2. That said merchandise was appraised upon entry at the port of Milwaukee, Wisconsin, at \$25.77 per dozen pairs, net, packed, on the basis of constructed value as defined in section 402(d), Tariff Act of 1930, as amended, 19 U.S.C. § 1401a(d);

3. That the value of the said fur linings was not ascertained by the Philippine customs officials under the customs law of the Republic of the Philippines at the time of their importation into the Philippines; and

4. That a value for said fur linings was not subsequently proven, in accordance with said Philippine law, in the proceedings herein.

CONCLUSIONS OF LAW

1. That appellant-importer has failed to establish that the merchandise in issue constitutes "Philippine article[s]" within the contemplation of paragraph 1(f) of the protocol to the revised executive trade agreement between the United States and the Philippines, as authorized by section 201 of the Philippine Trade Agreement Revision Act of 1955, 69 Stat. 413, 424, 22 U.S.C. § 1372;

2. That constructed value as defined in section 402(d), Tariff Act of 1930, as amended, 19 U.S.C. § 1401a(d), is the proper basis for the determination of value of the subject merchandise;

3. That such constructed value is the appraised value herein; and

4. That the decision and judgment of the single judge, sitting in reappraisalment, on remand, is affirmed.

Judgment will be entered accordingly.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, March 6, 1978.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
P78/24	Re, C.J. March 2, 1978	Tanross Supply Co., Inc.	68/5565	Item 651.75 At converted rate of 38% to 47%	Item 708.71 25%	Judgment on the pleadings [defendant's motion to dismiss denied; plaintiff's motion for judgment on the pleadings granted]	Miami "1553 Microscope Dis- secting Kit"; sets con- taining microscopes		
P78/25	Re, C.J. March 2, 1978	Tanross Supply Co., Inc.	68/15095	Item 651.75 At converted rate of 38% to 47%	Item 708.71 25%	Judgment on the pleadings [defendant's motion to dismiss denied; plaintiff's motion for judgment on the pleadings granted]	Miami "1553 Microscope Dissect- ing Kit"; sets containing microscopes		

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisal Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/65	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R66/1842, etc.	United States value	U.S. selling prices, less 1% cash discount as de- termined by customs officer at time of ap- praisalment; less 32.6% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus-	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs

R78/66	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R66/18238, etc.	United States value	<p>toms officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs</p> <p>U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisal; less 24.2% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs</p>	U.S. v. Gelgy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
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DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/87	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R66/19856, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisalment; less 32.6% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisalment; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Gelgy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs
R78/93	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R66/20398, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisalment; less 33.4% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind;	U.S. v. Gelgy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs

R78/69	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R67/4025, etc.	United States value	less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
					U.S. selling prices, less 1% cash discounts determined by customs officer at time of appraisal; less 33.4% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs		

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/70	Watson, J. February 28, 1978	Ciba Chemical and Dye Company	R66/14771, etc.	United States value	U.S. selling prices, less 1% cash discounts de- termined by customs officer at time of ap- praisalment; less 25.7% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisalment; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
R78/71	Watson, J. February 28, 1978	Ciba Chemical and Dye Company	R66/17017, etc.	United States value	U.S. selling prices, less 1% cash discounts de- termined by customs officer at time of ap- praisalment; less 25.3% representing profit and general expenses usually made in U.S. on sales of dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

R78/72	Watson, J. February 23, 1978	Ciba Chemical and Dye Company	R46/28403, etc.	United States value	of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs
					U.S. selling prices, less 1% cash discounts de- termined by customs officer at time of ap- praisement; less 28.3% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs		

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY ON MERCHANDISE
R78/73	Watson, J. February 27, 1978	Ciba Chemical and Dye Company	R67/4676, etc.	United States value	U.S. selling prices, less 1% cash discount as de- termined by customs officer at time of ap- praisalment; less 33.4% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisalment; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
R78/74	Watson, J. February 28, 1978	Ciba Chemical and Dye Company	R68/18004, etc.	United States value	U.S. selling prices, less 1% cash discount as de- termined by customs officer at time of ap- praisalment; less 38.7% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind;	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

R73/75	Watson, J. March 1, 1978	Ciba Chemical and Dye Company	R66/16935, etc.	United States value	less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Beuzenoid dyestuffs
					U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisal; less 25.7% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisal; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs		

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/76	Watson, J. March 1, 1978	Ciba Chemical and Dye Company	R66/17028, etc.	United States value	U.S. selling prices, less 1% cash discounts de- termined by customs officer at time of ap- praisement; less 23.3% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
R78/77	Watson, J. March 1, 1978	Ciba Chemical and Dye Company	R67/9121, etc.	United States value	U.S. selling prices, less 1% cash discounts de- termined by customs officer at time of ap- praisement; less 23.3% representing profit and general expenses usually made in U.S. on sales of dyestuffs,	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

R7878	Watson, J. March 27, 1978	Ciba Chemical and Dye Company	R66/8554, etc.	United States value	of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisal; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dye-stuffs	U.S. selling prices, less 1% cash discount de- termined by customs officer at time of ap- praisal; less 23.5% representing profit and general expenses usually made in U.S. on sales of dye-stuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisal; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dye-stuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1153)	New York Benzencid dye-stuffs
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DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
E78/79	Watson, J. March 2, 1978	Ciba Chemical and Dye Company	R66/18291, etc.	United States value	U.S. selling prices, less 1% cash discount as de- termined by customs officer at time of ap- praisalment; less 23.5% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisalment; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs

E79/80	Watson, J. March 2, 1978	Ciba Chemical and Dye Company	R66/18820, etc.	United States value	U.S. selling prices, less 1% cash discount as de- termined by customs officer at time of ap- praisement; less 23.3% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of trans- portation and insur- ance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; divided by 1.40 or such other factor applied by cus- toms officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1156)	New York Benzenoid dyestuffs
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Petition for Rehearing Before the United States Court
of Customs and Patent Appeals February 16, 1978

APPEAL 77-18.—Rudolph Miles *v.* United States.—AMERICAN GOODS
RETURNED—Z-BEANS (U.S. COMPONENTS OF RAILROAD BOX-
CARS)—DUTY ALLOWANCE—TSUS. C.D. 4689 reversed and
remanded January 5, 1978 (C.A.D. 1202). Petition by appellee.

International Trade Commission Notices

Investigations by the United States International Trade Commission

DEPARTMENT OF THE TREASURY, March 15, 1978.

The appended notices relating to investigations by the United States International Trade Commission are published for the information of Customs Officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

In the Matter of:

CERTAIN WELDED STAINLESS
STEEL PIPE AND TUBE

} Investigation No. 337-TA-29

Amendment to Commission Determination and Action

The Commission determination and action in this investigation issued February 22, 1978 (43 F.R. 8304, March 1, 1978), is hereby amended to correct a clerical error as follows:

In paragraph I, "definitions," the definition of "Welded Stainless Steel Pipe and Tube" should be amended to delete the words ".0375 to 6.525" and to place in their stead the words "0.375 to 4.5."

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued: March 7, 1978

In the Matter of
CERTAIN ROLLER UNITS

}

Investigation No. 337-TA-44

and

In the Matter of
CERTAIN COMBINATION LOCKS

}

Investigation No. 337-TA-45

Notice of Consolidated Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with the two above-styled investigations at 10:00 a.m. on Tuesday, March 14, 1978, in the ALJ Hearing Room, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. The consolidation is for the convenience of the parties and is limited to this conference. The purposes of this preliminary conference are to establish discovery schedules, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of these investigations.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon parties of record and shall publish this Notice in the **FEDERAL REGISTER**.

JUDGE DONALD K. DUVAL

Presiding Officer.

Issued: March 3, 1978.

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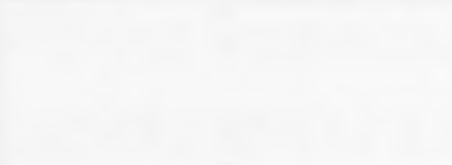
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